

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

IN RE:

KIANDRA DANIELLE SOUFFRANT, CASE NO.: 18-40550-KKS
Debtor. CHAPTER: 7

KIANDRA DANIELLE SOUFFRANT, ADV. NO.: 19-04041-KKS
Plaintiff,

v.

STATE OF FLORIDA DEPT. OF CHILDREN
AND FAMILIES BENEFIT RECOVERY/
OFFICE OF PUBLIC BENEFITS INTEGRITY
Defendant.

ORDER DENYING RELIEF REQUESTED IN PLAINTIFF'S *RESPONSE*
IN OPPOSITION* (DOC. 44) AND *MOTION: NOT TO DISMISS
***ADVERSARY PROCEEDING* (DOC. 46)**

THIS MATTER is before the Court on two papers filed by self-represented Plaintiff, Kiandra Danielle Souffrant: 1) a *pro se* document that the Court has construed as a *Response in Opposition*;¹ and 2) the *Motion: Not*

¹ Doc. 44. The Response in Opposition relates to the Court's *Order 1) Granting Summary Judgment for Defendant as to Nondischargeability under 11 U.S.C. § 523(a)(7); and 2) Dismissing Remainder of Adversary Proceeding for Lack of Subject Matter Jurisdiction* ("Order"), Doc. 41.

to Dismiss Adversary Proceeding (collectively “Plaintiff’s Motions”).² For the reasons set forth below, the Court finds that the relief requested in Plaintiff’s Motions is due to be denied.

BACKGROUND

On April 3, 2018, a criminal case was initiated against Plaintiff in Leon County, Florida, on charges of public assistance fraud.³ Plaintiff filed a Chapter 7 bankruptcy petition on October 15, 2018.⁴ She received a discharge on January 30, 2019.⁵ On July 9, 2019, Plaintiff signed a “*Pretrial Intervention Program Deferred Prosecution Agreement*” (“Deferred Prosecution Agreement”) in lieu of further criminal prosecution.⁶ On September 13, 2019, Plaintiff filed papers requesting that her bankruptcy case be re-opened to permit her to file an adversary proceeding.⁷ The Court construed

² Doc. 46.

³ *Florida v. Souffrant, Affidavit of Complaint, 2018 CF 01170* (Fla. 2d Cir. Ct. Apr. 3, 2018), Doc. 8. The Court takes judicial notice of the Affidavit of Complaint in Plaintiff’s criminal case. Fed. R. Evid. 201; *Bryant v. Ford*, 967 F.3d 1272, 1275 (11th Cir. 2020) (quoting Fed. R. Evid. 201(b)) (“Rule 201 of the Federal Rules of Evidence permits a court to ‘judicially notice a fact that is not subject to reasonable dispute because it’ either ‘is generally known within the trial court’s territorial jurisdiction’ or ‘can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.’”).

⁴ *Voluntary Petition for Individuals Filing for Bankruptcy, In re Souffrant*, No. 18-40550-KKS (Bankr. N.D. Fla. Oct. 15, 2018), Doc. 1.

⁵ *Order of Discharge, In re Souffrant*, No. 18-40550-KKS (Bankr. N.D. Fla. Jan. 30, 2019), Doc. 41.

⁶ The Deferred Prosecution Agreement states that Plaintiff will pay Defendant “restitution in the amount of 2,535 dollars.” *Answer*, Doc. 6-1, p. 4.

⁷ *Pro Se Document, In re Souffrant*, No. 18-40550-KKS (Bankr. N.D. Fla. Sept. 13, 2019) Doc. 45.

the papers as a Motion to Reopen which it granted on September 26, 2019.⁸

Plaintiff filed a Complaint initiating this adversary proceeding on October 3, 2019.⁹ Defendant filed an answer on November 8, 2019.¹⁰ The crux of Plaintiff's arguments in her papers is that the criminal case was brought against her in error and that she does not owe a debt to Defendant.¹¹ Defendant has not responded to Plaintiff's papers beyond its Answer to the initial Complaint, nor has it or its counsel of record ever appeared at a hearing.¹²

Based on the papers and record in this adversary proceeding, the Court entered an order on February 22, 2021, granting summary judgment in favor of Defendant on the issue of nondischargeability of the restitution it alleges Plaintiff owes pursuant to the Deferred Prosecution Agreement

⁸ *Motion to Reopen Chapter 7 Case, In re Souffrant*, No. 18-40550-KKS (Bankr. N.D. Fla. Sept. 13, 2019), Doc. 46; *Order Granting Relief Requested in Debtor's Pro Se Document (Doc. 45) and Reopening Case, In re Souffrant*, No. 18-40550-KKS (Bankr. N.D. Fla. Sept. 26, 2019), Doc. 47.

⁹ Plaintiff's initial Complaint comprised a document entitled "*Brief Complaint*," Doc. 1. The remainder of the procedural history of this adversary proceeding is contained in the Order and incorporated herein.

¹⁰ *Answer*, Doc. 6-1.

¹¹ *Pro Se Document*, Doc. 14; Plaintiff's Response to the Court's Order to Show Cause, Doc. 20; *Amended Complaint*, Doc. 31, pp. 1–3 ("Plaintiff requests "relief of the unauthorized and wrongfully determined criminal case that was brought upon me for allegations of food stamp fraud;" an injunction "so that [DCF] won't do this to another innocent parent;" and compensatory, punitive, and special damages.); *Supplement*, Doc. 33.

¹² It appears that the attorney who filed the Answer to the original Complaint is no longer with Defendant or employed by the State of Florida. For that reason, the Court is copying this Order to other representatives of Defendant.

and dismissing the remainder of this adversary proceeding for lack of subject matter jurisdiction.¹³ The Court gave parties until March 8, 2021 to file responses or requests opposing the relief granted in the Order. Plaintiff's Motions ask the Court to reverse its ruling.

Plaintiff again asserts that she is innocent of the criminal charges against her and that she does not owe the debt resulting from the Deferred Prosecution Agreement.¹⁴ In essence, Plaintiff's position is that the criminal case brought against her was wrong and that she is no longer bound by the Deferred Prosecution Agreement; she claims that her probation officer and a state court judge have indicated that the charges brought against her are wrong but that the criminal charge remains until her case goes to trial.¹⁵ Plaintiff also states that even though she is no longer bound by the Deferred Prosecution Agreement, she pays the amount owed to Defendant voluntarily.¹⁶

DISCUSSION

Plaintiff's Motions assert no previously undisclosed facts or any legal

¹³ Doc. 41.

¹⁴ "The main outcome that I am wanting is relief of this debt that I never owed," and "Im [*sic*] wanting a trial because the department of children and families along with the state attorneys [*sic*] office know what wrongdoing has been done." Doc. 44, p. 2.

¹⁵ Doc. 46, p. 1-2.

¹⁶ *Id.*

theory to grant the relief she requests. This Court cannot intervene in any criminal case. As stated in the Order from which Plaintiff seeks relief, “a bankruptcy court is not the proper forum for contesting events that occurred in a criminal proceeding.”¹⁷

The United States Supreme Court has long held that “absent extraordinary circumstances federal courts should not enjoin pending state criminal prosecutions.”¹⁸ In *Younger v. Harris*, the Court opined that one reason for this longstanding public policy is that “courts of equity should not act, and particularly should not act to restrain a criminal prosecution, when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief.”¹⁹ The Supreme Court specified that “the cost, anxiety, and inconvenience of having to defend against a single criminal prosecution” are not, by themselves, irreparable where the affected party’s rights can be adequately addressed by the criminal proceeding.²⁰

The Eleventh Circuit Court of Appeals has reversed a case in which the bankruptcy court had enjoined a prosecutor and witness from continuing a state criminal prosecution based on a grand jury indictment for “theft

¹⁷ Doc. 41, p. 10.

¹⁸ *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans*, 491 U.S. 350, 364 (1989).

¹⁹ *Younger v. Harris*, 401 U.S. 37, 43–44 (1971).

²⁰ *Id.* at 46.

by deception,” arising out of worthless checks.²¹ The court held that “a federal court should not enjoin a pending state criminal prosecution except under extraordinary circumstances where there is a great and immediate danger of irreparable harm to plaintiff’s federally protected rights that cannot be eliminated by his defense against a single prosecution.”²²

In a case where a party sought to have a federal district court enjoin a foreclosure sale ordered by a state court, the Eleventh Circuit Court of Appeals held that the federal court should abstain, stating:

Abstention under *Younger* is appropriate when: (1) the federal proceeding would interfere with ongoing state judicial proceedings; (2) the state proceedings implicate important state interests; and (3) the plaintiffs have an adequate state remedy available.²³

The court further found that it “must ‘assume that state procedures will afford an adequate remedy, in the absence of unambiguous authority to the contrary;” and that “[t]he plaintiffs bear the burden of overcoming this presumption ‘by demonstrating that state remedies are inadequate.’”²⁴

The harm Plaintiff complains of is that she is still having to deal with

²¹ *Barnette v. Evans*, 673 F.2d 1250, 1251 (11th Cir. 1982).

²² *Id.* at 1252 (citing *Younger*, 401 U.S. at 46); *see also In re Cantin*, No.: 15-28505-BKC-MAM, 2019 WL 2306620, at *12 (Bankr. S.D. Fla. May 30, 2019).

²³ *Shepherd v. U.S. Bank Nat’l Ass’n as Trustee for Structured Asset Inv. Loan Trust, Mortg. Pass-Through Certificates Servs.*, 839 Fed. Appx. 304 (11th Cir. 2020).

²⁴ *Id.* (citations omitted).

the criminal matter pending against her, which she claims is improper. This is not a sufficient basis for this Court to interfere with the state criminal proceeding related to public assistance fraud. Such proceedings by Defendant, State of Florida Department of Children and Families, clearly implicate important state interests. Plaintiff has an adequate remedy at law in the criminal proceeding: because she apparently is awaiting trial, she will have an opportunity to prove that the charges against her were improper and that the Deferred Prosecution Agreement and resulting Restitution Order should be vacated. In granting summary judgment for Defendant this Court did not determine any amount due from Plaintiff to Defendant; it simply held that any amount Plaintiff may owe is nondischargeable in bankruptcy.

Because Plaintiff seeks no relief related to this bankruptcy case or over which this Court has jurisdiction, and because Plaintiff's Motions present an insufficient basis on which to interfere with state court proceedings,

It is ORDERED:

1. The relief requested in Plaintiff's *Response in Opposition* (Doc. 44) and *Motion: Not to Dismiss Adversary Proceeding* (Doc. 46) is DENIED.
2. The *Order 1) Granting Summary Judgment for Defendant as to*

Nondischargeability Under 11 U.S.C. § 523(a)(7); and 2) Dismissing Remainder of Adversary Proceeding for Lack of Subject Matter Jurisdiction (Doc. 41) is FINAL. The Clerk's office is directed to close this adversary proceeding.

3. This Order is without prejudice to Plaintiff, Kiandra Danielle Souffrant, taking whatever actions she or her Public Defender(s) may deem necessary or appropriate to contest the criminal charges and assessment of the amount due under the Deferred Prosecution Agreement in an appropriate state court or with Defendant directly.
4. The Clerk shall provide copies of this Order to:
 - a. Tawanda Washington, Program Administrator, State of Florida Dept. of Children and Families Benefit Recovery/Office of Public Benefits Integrity, 1317 Winewood Blvd., Building 3, Room 104D, Tallahassee, Florida 32399;
 - b. Javier Enriquez, General Counsel, Florida Department of Children and Families, 1317 Winewood Blvd., Building 2, Room 204, Tallahassee, Florida 32399;
 - c. John Knowels, Office of the Public Defender, 2nd Judicial Circuit, 301 S. Monroe St., Suite 401, Tallahassee, Florida 32301-

1861;

- d. Savannah Bingham, Office of the State Attorney, 2nd Judicial Circuit, 301 S. Monroe St., Suite 475, Tallahassee, Florida 32301-1861; and
- e. Office of the State Attorney, 2nd Judicial Circuit, Felony B Temporary Case, 301 S. Monroe St., Suite 475, Tallahassee, Florida 32301.

DONE and ORDERED on April 2, 2021.



KAREN K. SPECIE
Chief U.S. Bankruptcy Judge

cc: all interested parties, including
Kiandra Danielle Souffrant
31762 Bluestar Hwy
Midway, FL 32343